

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JEFFREY CHAMBERS,

Plaintiff,

v.

HOLLAND, CITY OF, et al.,

Defendants.

CASE No. 1:21-cv-123

HON. ROBERT J. JONKER

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**ORDER APPROVING AND ADOPTING  
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Berens' Report and Recommendation in this matter (ECF No. 5) and Plaintiff's Objection to the Report and Recommendation (ECF No. 6). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

[t]he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the

Report and Recommendation itself; and Plaintiff's Objections. After its review, the Court finds that Magistrate Judge Berens' Report and Recommendation is factually sound and legally correct.

The Magistrate Judge recommends dismissing Plaintiff's Complaint under the screening standards of 28 U.S.C. § 1915(e)(2). The Magistrate Judge concluded that the allegations in Plaintiff's Complaint called into question the validity of his conviction, and hence they were barred under *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). The Magistrate Judge further concluded that Plaintiff's claims against Judge Bocanegra were barred by the doctrine of absolute judicial immunity, and that the allegations against City Attorney Dalman were entitled to prosecutorial immunity. The Report and Recommendation carefully, thoroughly, and accurately addresses these issues and the Court agrees, on *de novo* review, with the Magistrate Judge's recommendation for the very reasons the Report and Recommendation delineates.

**ACCORDINGLY, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge (ECF No. 5) is **APPROVED AND ADOPTED** as the opinion of the Court.

**IT IS FURTHER ORDERED** that Plaintiff's Complaint is dismissed for failure to state a claim under 28 U.S.C. §§ 1915(e)(2).

**IT IS FURTHER ORDERED** that Plaintiff's *Heck*-barred claims are **DISMISSED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that Plaintiff's claims against Judge Bocanegra and City Attorney Dalman are **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that should Plaintiff appeal this decision, the Court will assess the \$505 appellate filing fee under § 1915(b)(1); *see McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

A Judgment consistent with this Order will enter.

Dated: March 1, 2021

/s/ Robert J. Jonker  
ROBERT J. JONKER  
CHIEF UNITED STATES DISTRICT JUDGE